

REMARKS

Claims 1-21 are pending in the present application. Claims 1, 4, 5, 11, 14, 15, 18, and 21 have been amended.

Objection to the Drawings

The Examiner has objected to the drawings under 37 CFR § 1.83(a) as failing to show each feature of the claim. Applicant respectfully traverses this objection. In general, the drawings are more comprehensive than the claims. For example, the flow charts in Figs. 2 to 5 include in great detail the steps of each method claim.

For example, claim 1 is represented in the diagrams as follows:

- establishing a network connection - see, e.g., Fig 1, elements 103, 106, 107; Fig. 2, 204
- monitoring - See, e.g., Fig. 2, 208, 209 (see also p. 17, lines 18 to 28);
- issuing a command - See, e.g., Fig. 3, 315, 317
- modifying - See, e.g., Fig. 3, 315, 317 (as described at p. 21, lines 7 to 19)
- modifying - See, e.g., Fig. 3, 315, 317, 302 (as described at p. 21, lines 7 to 19)

There is no requirement in the rules that the precise wording in each claim must be placed verbatim into the drawings. Rule 83(a) requires such verbatim recital of the claim language in the specification when it is essential for "proper

understanding of the invention." As demonstrated above, such is not the situation in this case. Accordingly, reconsideration and withdrawal of the objection to the drawings under 37 C.F.R. § 1.83(a) is respectfully requested.

35 U.S.C. § 112, Second Paragraph Rejection

Claims 1-17 and 21 have been rejected under 35 U.S.C. § 112, second paragraph as failing to distinctly claim the invention. Claims 1, 4, 5, 11, 14, 15, and 21 have been amended to recite positive method steps.

With respect to the specific rejection of claim 5, this claim has been amended to recite a method as follows. The first computer sends the list of available data to the second computer. Then, the second computer determines a sub-set of the available data from that list of available data. The second computer sends that sub-set of the available data from to the first computer. The first computer then collects data in accordance with the a sub-set of the available data from the computer game, and then provides that collected data to the second computer. In short, the sub-set of available data is a list of some of the data that is from the list of available data, as determined by the second computer.

For example, in relation to claim 5, as recited in the specification of the application, when a Collector 105 queries a system that has the WAVE interface according to an embodiment of the present invention, the system provides a list of

available data. The Collector can then check if the data being requested is available from that system. For instance, if a Collector queries a 3D system, it may list attributes such as the frame rate, texture memory and current video driver. The Collector can then check that list and request the appropriate attribute from the 3D system and pass that data to the WAVE server 102.

With respect to claim 6, no amendment has been made. A “resource value” is a term of art in the computer game field. It is referred to in the specification at page 5, line 15. A resource value is a piece of data. A resource in a computer game may be, for example, a tank. The tank is a “resource” or “asset” of the game. A resource value for the tank may be, for example, the strength of the tank. This term is well-known in computer gaming.

In view of the above, reconsideration and withdrawal of the rejection of claims 1-17 and 21 under 35 U.S.C. § 112, second paragraph is respectfully requested.

Rejection under 35 U.S.C. § 102(b)

According to the text of the Office Action, claims 1-21 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,166,886 to Molnar (“Molnar”). It is noted at the outset that independent claim 20 includes language not found in the other pending claims. Since the text of the Office Action provides no grounds for the rejection of claim 20, it is respectfully requested that claim 20 be

allowed. Also, with respect to several of the dependent claims, the text of the Office Action states that these features are "inherently known." Such a statement is improper to support a rejection under 35 U.S.C. § 102(b). As stated in § 706.02 of the MPEP, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." Applicant respectfully requests that if the Examiner is to maintain the rejection of the dependent claims under § 102(b) that an explanation be given as to how the features of these claims are inherent from the Molnar reference.

Molnar describes a system for trial use of a computer program before purchase. The presently claimed invention is a system for *dynamically changing* a computer program while it is executing.

Molnar states at col. 4 that new material can be added to memory, and portions of material in memory can be replaced. This memory is a reference to the broadcast memory 24, and not the memory of the receiver 38. It is the material that is being made available for broadcast ("to be broadcast") that is being changed. The decision to make the changes are being made by the transmitter 22, and the material is being changed at the transmitter (i.e., the changes are made and controlled locally). This is in sharp contrast to claim 1, where the *second* computer issues a command to modify the computer code at the *first* computer.

Additionally, Molnar does not teach that the computer game is modified *while*

the computer game is executing, and without ceasing execution of the computer game.

According to embodiments of the present invention, the computer game is changed by a remote process, and the computer game does not need to stop and be re-started for this process to occur.

For example, if a computer program is updated, the usual prior art process is to halt operation of the computer program while it is being updated, or to halt and restart or reboot the computer program immediately after it has been updated. The present invention does not require that this take place. (I have amended the independent claims to make this clear.)

The present invention is analogous to changing the spark plugs on an automobile while the automobile is running.

Molnar does not teach that the computer program being updated can continue to run while being updated.

Cols. 8 and 9 of Molnar relate to receiving video, on a line by line basis, and are not related to updating a computer program. As noted in col. 8, lines 59 to 61, the receiver interface 38 is controlled by the local computer 42 during the receiving (not updating) process.

This is in sharp contrast to the presently claimed invention where the *second computer* controls the process of *modifying* the *computer code* already stored at and running on the first computer.

It is noted that the entertainment programs referred to at col. 3, lines 58-60 of Molnar are programs to “attract users to the vending machine” and are not the programs for trial use. Thus, contrary to the examiner’s assertion, Molnar does not teach a system to change a computer game.

In view of the above, reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. § 102(b) is respectfully requested.

CONCLUSION


The Applicant respectfully submits that the present case is in condition for allowance and respectfully requests that the Examiner issue a notice of allowance.

The Office is hereby authorized to charge any fees determined to be necessary under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayment to Kenyon & Kenyon **Deposit Account No. 11-0600.**

The Examiner is invited to contact the undersigned at (202) 220-4255 to discuss any matter concerning this application.

Respectfully submitted,

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